IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 669 of 2007
Date of decision : 9.2.2007

Mohinder Kumar

.....Petitioner.

Versus

Tribhushan Chand

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Deepak Arora,Advocate
for the petitioner.

Mr. S.K. Gupta, Advocate
for the respondent.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 9.1.2007 passed by the learned Rent Controller, U.T. Chandigarh ordering eviction of the petitioner from the demised premises after rejecting his application for leave to defend in a petition moved under Section 13-A of the East Punjab (Urban Rent Restriction) Act, 1949 as applicable to U.T. Chandigarh.

The learned counsel for the petitioner vehemently contends that the respondent-landlord has sought eviction of additional accommodation as one set of accommodation was available with him and, therefore, leave to defend ought to have been granted in view of the law laid down by this Court in the case of ***The Punjab & Sind Bank and others Versus Kashmir Singh Bhullar (K.S. Bhullar) 1996(2) RLR 296*** wherein this Court was pleased to lay down that in case landlord seeks possession of additional accommodation in the same building then the sufficiency of accommodation can only be decided by the Rent Controller if leave to defend is granted to

the tenant to contest the application. The learned counsel for the petitioner also places reliance on the judgment of this Court in the case of ***Prit Pal Kaur Vs. B. S. Ahuja 1996(2) RLR 304*** which is also to the same effect. The learned counsel for the petitioner further places reliance on the judgment of this Court in the case of ***Surjan Singh Vs. Krishan Lal Garg 1996(1) RCR 610*** to contend that as the petitioner failed to prove that the other building which fell vacant was not suitable for his requirement then the application for leave to defend could have been granted as the landlord was not entitled to eviction. The learned counsel for the petitioner further places reliance on the judgment of this Court in the case of ***N.K.Jain, Advocate Versus Ved Parkash Sharma 1991(1) RCR 455*** to contend that once the part of premises is already in possession of landlord then the leave to contest be granted and question of suitability of accommodation has to be determined and this question can only be decided when tenant is allowed leave to contest.

The learned counsel for the petitioner has also placed reliance in the cases ***Jagdish Puri Vs. Kundan Lal Thaper 1994(1) RCR 245, K.G.P. Pillai Vs. Subhash Chander Pathania 1990(2) RCR 386*** and ***Ravinder Nath Khanna Vs. T.R. Lakhanpal and anr. 1990(2) RCR 73*** , which are also to the same effect.

The learned counsel for the petitioner contended that once it is not in dispute that the part of building was vacated by another tenant, a presumption has to be drawn that the landlord has taken possession thereof and, therefore, he had to prove on record that the possession so taken was not sufficient for his need so as to claim additional accommodation in view of the law referred to above. The learned counsel for the petitioner further

contended that the landlord-respondent failed to mention in the petition that he has not taken the possession of the premises vacated by the another tenant and, thus, the possession is deemed to be with the landlord. This contention of the learned counsel for the petitioner is totally misconceived in view of the stand taken by the petitioner in leave to defend. The petitioner had taken a positive stand that the premises in dispute was not required by the respondent-landlord in view of his re-employment in service after retirement. This plea of the tenant-petitioner negatives the contention raised by the petitioner. In view of the positive stand there arises no question to draw any presumption as suggested by the learned counsel for the petitioner. The learned counsel for the petitioner thereafter contended that the documents attached with the rent petition were forged and fabricated documents as in the rent note certain alterations were made. This fact according to the learned counsel for the petitioner could be proved only after leave to defend was granted.

I have considered the arguments raised by the learned counsel for the petitioner and find no force in the same. It is not in dispute that the respondent-landlord is a specified landlord who has retired from service. The relationship of landlord and tenant is also not in dispute. Keeping in view the status of the respondent-landlord and the family members, the need of the landlord-respondent has to be held to be bona fide. The learned Rent Controller, therefore, was right in declining the leave to defend and ordering eviction of the petitioner.

No merit.

Dismissed.

9.2.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**